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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER HUYNH, SON P	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/527,822

Applicant(s)

KUROSAKI ET AL.

Examiner

SON P. HUYNH

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2010.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-28 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues Goldman and Ellis do not teach or suggest program listing indicating viewing of a recording of a program. Therefore, Goldman in view of Ellis does not disclose ... an indicator of the data indicating the viewing of recordings of programs," (page 12). This argument is respectfully traversed.

Hassell et al (7,784,081 B2 – hereinafter referred to as Hassell) is a continuation of 09/157,256 which is incorporated by reference in its entirety in Ellis (see Ellis: paragraph 0055). Thus, Hassell is treated as portion of the specification of Ellis. Hassell discloses statistical data including indicator of the data indicating the viewing of recordings of program (e.g., "Terminator", "Wild Africa" with indicators "yes" indicating the program has been viewed - see include, but not limited to, figures 9, 12a, 12b, col. 9, line 53-col. 10, line 18). Ellis further discloses displaying data in superimposing fashion and displaying data including an indicator of the data indicating scheduling of recording of future-broadcast programs (see include, but not limited to, E988: figures 11a, 13a-13b, paragraphs 0122, 0125-0126, 0129, 0134; Hassell : figures 9, 12a-12b, col. 5, lines 33-40, col. 9, line 53-col. 10, line 17). Therefore, the combination of Goldman and Ellis discloses or suggests generating an EPG having superimposed statistical data including

indicator of the data indicating scheduling of recording of future-broadcast programs and data indicating viewing of a recording of a program.

It is further noted that the Examiner need not give patentable weight to non functional descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. See *In re Lowry*, 32 F.3d 1579, 1583-84 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338 (Fed. Cir. 2004) and BPAI recent final decision in *Ex parte Curry*, 2005-0509 (BPAI 2005), 84 USPQ2d 1272 (Affirmed, Rule 36, Fed. Cir., slip op. 06-1003, June 2006). In this case, the limitation "displaying statistical data respective to individual programs within the two-dimensional grid guide format" or "statistical data layer including an indicator of the data indicating..." in all independent claims and other "indicators" in new claims 25-28 are drawn to descriptive material not functionality related to the system. Thus, the Examiner does not need to give patentable weight to nonfunctional descriptive material, as it "will not distinguish the invention from the prior art in terms of patentability." *In Re Nga*, at 1339. Regardless of whether the combination of the references teach "statistical data displayed superimposed respective to individual programs within the two-dimensional grid guide" or anywhere in the grid guide, or "displayed superimposed statistical data including an indicator of data indicating scheduling of future broadcast programs and an indicator of the data indicating the viewing of the recording of the program", "indicator" for number of persons who scheduled the program for recording, who viewed the recording of the program, or indicator of the good impression level, or any indicator of data, the limitations will not differentiate the claimed invention from the prior art.

Nonetheless, the Examiner has found that the teaching displaying the statistical data in superimposed fashion includes displaying the statistical data respective to individual programs within the two-dimensional grid guide format" and the "data including indicating scheduling of recording of future-broadcast programs", the "displayed superimposed statistical data including an indicator of the data indicating scheduling of recording of future-broadcast programs." In particular, Ellis is relied on for the teaching of superimposing (see discussed above) and the displayed data including an indicator of the data indicating scheduling of recording of future-broadcast programs and indicator indicating the viewing of the recording of the program (see include, but not limited to, E988: figures 11a, 13a-13b, paragraphs 0122, 0125-0126, 0129, 0134; Hassel (figures 9, 12a-12b). The feature of "two-dimensional grid guide format" is already taught by Goldman. The feature "statistical data including data indicating scheduling of recording of future broadcast programs" is also taught by Goldman (par. 0022, 0033, 0039). Goldman further discloses displaying the statistical data relative to individual programs within the grid guide format for the EPG (e.g., viewership or percentage of viewing popularity are displayed in relative to individual programs and/or channels within the grid guide format of the EPG - see include, but not limited to, figures 2-6, paragraphs 0052-0054). Goldman further discloses displaying the statistical data includes displaying the statistical data respective to individual programs within the two-dimensional grid guide format (e.g., displaying statistical data respective to individual programs such as "Survivor", "Nova", etc. and these programs are on two dimensional

program guide and within the grid program guide or displaying statistical data 208 on the right/within the programs in first time ranges and on the left/outside programs of second time ranges - see include, but not limited to, figure 4).

For the reasons given above, rejections of claims 1-28 are analyzed as discussed below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman (US 2002/0112239 A1) in view of Ellis et al. (US 2003/0020744 A1 – referred as Ellis).

Note: US 2005/0149964 A1 (referred as Thomas), US 2005/0204388 A1 (referred as Knudson), US 2003/0149988 A1 (referred as E988), US 2005/0204387 A1 (referred as K387), Hassell (US 7784,081 –hereinafter referred to as Hassell), US 7,183,355 (hereinafter referred to as E355) are incorporated by reference in Ellis in their entireties (see Ellis - paragraphs 0055, 0068, 0085, 0092, 0098, 0102, 0104, 0107, 0108). All

references incorporated by reference in their entirety in Ellis are treated as part of Ellis' specification.

Regarding claim 1, Goldman discloses a data processing apparatus (figure 2) that performs data processing to generate an EPG (Electronic program guide) to be displayed on a display (e.g., EPG generator performs data processing to generate an EPG to be displayed on television screen - figures 2, 4-6), comprising:

program guide data acquiring means for acquiring program guide data that gives guidance on programs (e.g., device at clearinghouse system or at local facility or at home entertainment system for acquires program guide data to generate an EPG to be displayed on television screen - see include, but are not limited to, figures 2-6, paragraphs 0022-0024, 0033-0034, 0042, 0051);

statistical data acquiring means for acquiring statistical data representing degrees of interest in the programs, the statistical data including data indicating scheduling of recording of future-broadcast programs (e.g., device/component for acquiring/gathering viewing behavior statistics, or viewer activity associated with television programs including watching, recording or scheduling a future recording of television program – see include, but are not limited to, figures 2-6, paragraphs 0021-0022, 0025-0028, 0033, 0039);

EPG generating means for generating an EPG including a statistical data layer and a program guide data layer displayed as two-dimensional grid guide format, the statistical data layer displaying the statistical data in respective to individual programs

displayed within the two-dimensional grid guide format of the EPG (EPG generator for generating an EPG including program guide data layer comprises channel number, title, etc. and statistical data layer including viewership, percentage of viewing popularity, displayed as two-dimensional grid guide format an in respective (right/within or left/outside) individual programs within the two dimensional grid guide format of the EPG- see include, but are not limited to, figures 2-6, paragraphs 0052-0054).

Goldman further discloses different ways to display statistical data/viewership information and program guide data (paragraph 0054). However, Ellis does not explicitly disclose the teaching of data indicating viewing of a recording of a program, displaying data layer in superimposing fashion, the displayed superimposed data including an indicator of the data indicating scheduling of recording of future-broadcast program and data indicating viewing of the viewing of the recording of the program.

Ellis discloses statistical data including data indicating viewing of a recording of a program (see include, but not limited to, Hassell, figures 9, 12a-12b and discussion in "response to arguments" above); Ellis further discloses program guide data layer and other data layer are superimposed/overlaid (see include, but are not limited to, figures 20a-20b, paragraph 0112; K387: figures 18, 24, 98, 102; Hassell: col. 5, lines 35-41). Thus, Ellis discloses displaying data in superimposing fashion respective to individual programs. Ellis also discloses the displayed data on data layer including an indicator of the data indicating scheduling of recording of future broadcast programs and an indicator of the data indicating the viewing of the recording of the program (see include, but not limited to, E988: figures 11a, 13a-13b, paragraphs 0122, 0125-0126, 0129,

0134; Hassell: figures 9, 12a-12b, col. 9, line 53-col. 10, line 17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goldman with the teaching of superimposing fashion, data indicating viewing of a recording program, and displaying an indicator of data indicating scheduling of recording of future-broadcast programs and indicator of the data indicating the viewing of the recording of the program as taught by Ellis in order to yield predictable results such as displaying simultaneously different contents and/or information on the screen in larger windows thereby allowing the user to view different contents/information on a display easily.

Regarding claim 2, Goldman in view of Ellis discloses the data processing apparatus as discussed in the rejection of claim 1. Goldman further discloses the statistical data acquired by the statistical data acquiring means includes at least one of data indicating a numbers of persons who viewed a program during a broadcast time thereof, an audience rating (real time rating) of the program during the broadcast time thereof... (see include, but are not limited to, Goldman: figure 4, paragraphs 0052-0054).

Regarding claim 3, Goldman in view Ellis discloses the data processing apparatus as discussed in the rejection of claim 2. Goldman in view of Ellis further discloses the statistical data is obtained on the basis of information transmitted from user terminals of users (statistical data including real time rating data, viewing information, etc. is obtained from user terminals of users - see include, but are not limited to, Goldman:

figure 2, paragraphs 0009-0010, 0022, 0043; Ellis: paragraphs 0107-0108; Thomas, paragraphs 0070-0076);

the audience rating (real time rating, viewer preferences, or viewer behavior, or viewer activity, etc.) of program during the broadcast time thereof is obtained using the number of users of the user terminals which transmitted the information a predetermined number of time or more within a predetermined period (e.g., this moment, "real time", or time frame such as minutes, etc.), as a population parameter (see include, but are not limited to, Goldman: figure 2, paragraphs 0027, 0052; Ellis: paragraphs 0107-0108; Thomas, paragraphs 0070-0076).

Regarding claim 4, Goldman in view Ellis discloses the data processing apparatus as discussed in the rejection of claim 1. Goldman further discloses EPG transmission means for transmitting a latest EPG generated by the EPG generating means to a user of a user terminal (e.g., component for transmitting the updated/modified EPG generated by EPG generator to viewer of a user terminal - see include, but are not limited to, figures 2-6, paragraphs 0037-0039, 0042-0047, 0049, 0052).

Regarding claim 5, Goldman in view Ellis discloses the data processing apparatus as discussed in the rejection of claim 1. Goldman in view of Ellis further discloses history data acquiring means for acquiring, as to individual users, history data which is a history of actions related to program viewing taken by each user (means for obtaining, or gathering viewing behavior, or viewing activity relating to associated program – see

include, but are not limited to, Goldman figures 2-6, paragraphs 0022, 0027, 0035-0040);

Goldman in view of Ellis further discloses the EPG generating means generates the EPG in which the program guide data, the statistical data, and the history data are superimposed (see include, but are not limited to, Goldman: figures 2-6, paragraphs 0022, 0027, 0035-0040, 0052-0054; Ellis: figures 20a-20b, paragraphs 0107-0109, 0112).

Regarding claim 6, the limitations that correspond to the limitations of claim 5 are analyzed as discussed in the rejection of claim 5, wherein the "operation data" corresponds to "history data" which is interpreted as activities information/usage data (see also, Goldman: paragraphs 0022, 0035-0040; Ellis: paragraphs 0107-0112).

Regarding claim 7, Goldman in view Ellis further discloses the data processing apparatus as discussed in the rejection of claim 1. Goldman in view of Ellis further discloses the EPG generating means generates the EPG in which the program guide data is displayed in a different manner for different broadcast status of a program (see include, but are not limited to, Goldman: paragraphs 0011, 0035, 0049, 0052-0054; or Ellis: figure 7, paragraph 0109 - the program guide client indicate that a program is new to a household by, for example, displaying a suitable icon or changing the display characteristics of listing (e.g., changing its color).

Regarding claim 8, Goldman in view Ellis discloses the data processing apparatus as discussed in the rejection of claim 7. Goldman further discloses program guide data in different manner (see include, but are not limited to, paragraphs 0011, 0052-0054). However, Goldman does not explicitly disclose displaying different manners for a program which ended, a program which is being broadcast and a program which will be broadcast.

Ellis further disclose the EPG generating means generates the EPG in which the program guide data is displayed in different manner for a program which ended, a program which is being broadcast and a program which will be broadcast (e.g., display in different manner such as different color, with a icon, etc., for program was recorded, new program, and program scheduled for recording - see include, but are not limited to, paragraph 0109; E988: paragraphs 0125-0126, figures 11a-11b, 12a-12b, 18a-18f). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goldman with the teaching as further taught by Ellis in order to allow the user to follow program status on the program guide screen easily.

Regarding claim 9, Goldman in view Ellis discloses the data processing apparatus as discussed in the rejection of claim 1. Goldman further discloses the EPG couple be updated via Internet and the user terminal for displaying the EPG could be computer (paragraphs 0022, 0024, 0033, 0040, 0056, 0060, figure 6)). Thus, the EPG generated by EPG generating means is displayable by a web browser.

Alternatively, Ellis also discloses Ellis further discloses the EPG generated by the EPG generating means is displayable by a web browser (e.g., on line program guide displayable by a web browser – see include, but are not limited to, paragraph 0041; E988: paragraphs 0072, 0160).

Regarding claim 10, Ellis discloses the data processing apparatus as discussed in the rejection of claim 1. The additional limitations that correspond to the additional limitation of claim 9 are analyzed as discussed in the rejection of claim 9, wherein "a dedicated browser" corresponds to "a web browser".

Regarding claim 11, Goldman in view of Ellis discloses the data processing apparatus as discussed in the rejection of claim 1. Goldman further discloses aggregating means for aggregating information transmitted from user terminals of users and obtaining the statistical data (e.g., component such as upstream receiver/interface or processing at clearinghouse system or at local facility for collecting viewing information, statistical information, etc. from the user terminals - see include, but are not limited to, figures 2-6, paragraphs 0022, 0028, 0030, 0039, 0042);

wherein the statistical data acquiring means acquires the statistical data obtained by the aggregating means (e.g., data processing device/memory acquires the viewing data, activities data, etc. received by the upstream receiver/interface or processing circuitry at local facility or clearinghouse system -see include, but are not limited to, figures 2-6, paragraphs 0037, 0039, 0042-0044).

Regarding claim 12, Goldman in view of Ellis discloses the data processing apparatus as discussed in the rejection of claim 11. Goldman further discloses information of viewer histories/activities are transmitted from the user terminal is information representing that a program is viewed during a broadcast time thereof, or information representing recorded program is viewed, etc. (see include, but are not limited to, paragraphs 0022, 0031, 0035, 0036).

Alternatively, Ellis also discloses the information transmitted from user terminals (e.g., user television equipments) is first information representing that a program is viewed during a broadcast time thereof (e.g., information of user viewing/watching a program in real time/during broadcast time), second information representing that a program recorded during a broadcast time thereof is viewed by playback (e.g., information collected in response to user action of recording a program and playback a recorded program), or third information representing that a program is scheduled for recording (see include, but are not limited to, paragraphs 0010, 0045, 0107-0110; Thomas: paragraphs 0050, 0055-0057, 0067, 0069; E988: paragraphs 0151-0153; E988: figures 12b, 18a-18f).

Regarding claim 13, Goldman in view of Ellis discloses the data processing apparatus as discussed in the rejection of claim 12. Goldman in view of Ellis further discloses the first information includes information which specifies the program viewed by a user and a viewing date/time of the program (e.g. date and time of action, including program

viewed, was taken in the program guide may be monitored and appropriate information may be stored in data structure – see include, but are not limited to, Goldman: paragraphs 0036-0037, 0022; Ellis: paragraphs 0055-0057);

the second information includes information which specifies a recorded program viewed by the user and a viewing date/time of the recorded program which uses a broadcast date/time of the recorded program viewed by the user as a reference (see include, but are not limited to, Goldman: paragraphs 0022, 0036-0037; E988: 0151-0153; Thomas, paragraphs 0055-0057);

the third information includes information which specifies the program which is scheduled for recording or whose recording is canceled, and information representing the recording schedule or cancellation thereof (e.g., information which specifies the program which is schedule for recording and information representing the recording schedule such as title, time, etc. - see include, but are not limited to, Goldman: paragraphs 0022, 0036-0037, 0039; E988: figures 11a-11b, 12a-12b, 18a-18f; Thomas: paragraphs 0055-0057).

Regarding claim 14, Goldman in view of Ellis discloses the data processing apparatus as discussed in the rejection of claim 13. Goldman in view of Ellis further disclose the first and second information further include a good impression level representing how the users feel about the program (e.g., high number of viewers selected/viewed program, or strong like, week like, high demand, etc. - see include, but are not limited

to, Goldman: paragraphs 0022, 0052-0054; Ellis: figures 13a-13d; Thomas, paragraph 0070).

Regarding claim 15, Goldman in view of Ellis discloses the data processing apparatus as discussed in the rejection of claim 13. Goldman in view of Ellis further discloses actual viewing date/time at which the user viewed the recorded program (see include, but are not limited to, Goldman: paragraphs 0022, 0036-0037, 0039, 0049, 0052-0054; E988: paragraphs 0151-0157; Thomas, paragraph 0055-0057).

Regarding claim 16, Goldman in view of Ellis discloses the data processing apparatus as discussed in the rejection of claim 11. Goldman in view of Ellis further discloses the information transmitted from the user terminal includes date/time information about broadcast dates/times of the programs (see include, but are not limited to, Goldman: paragraphs 0022, 0036-0039, 0052-0054; Ellis: paragraph 0100-0104, 0109; E988: figure 18f; Knudson: figures 10, 13-16);

the aggregation means aggregates the information transmitted from the user terminals for predetermined time intervals on the basis of the date/time information included in the information (e.g., upstream receiver interface/ processing circuitry receives user information/viewer activities in predetermined time frame - see include, but are not limited to, Goldman: paragraphs 0027, 0031, 0034, 0036-0039; Ellis: paragraphs 0100-0104, 0108-0109, 0119, 0125; E988: figure 18f; Knudson: figures 10, 13-16).

Regarding claim 17, Goldman in view of Ellis discloses the data processing apparatus as discussed in the rejection of claim 11. Goldman in view of Ellis further discloses the aggregation means sorts and stores the information transmitted from the user terminal by the users (e.g., the collected information is filtered/analyzed and stored in storage device - see include, but are not limited to, Goldman: paragraphs 0043, 0044, figures 2, 6; Ellis: paragraphs 0010, 0045, 0107, 0108, 0119, 0125; Thomas, paragraphs 0069-0075).

Regarding claim 18, Goldman in view of Ellis discloses the data processing apparatus as discussed in the rejection of claim 11. Goldman in view of Ellis further discloses the aggregation means determines whether or not the information transmitted from the user terminals is valid, and takes only valid information for aggregation (e.g., analyzing, filtering less important data and taking only high important data or desired data - see include, but are not limited to, Goldman: paragraphs 0037, 0043, 0044; Ellis: paragraphs 0107-0112; Thomas: paragraphs 0069-0075).

Regarding claim 19, Goldman in view of Ellis discloses the data processing apparatus as discussed in the rejection of claim 11. Goldman in view of Ellis further discloses the aggregation means aggregates the information transmitted from the user terminals for each of user attributes (e.g., user identifier, user profile, user demographic values, or

subscriber ID, etc. see include, but are not limited to, Goldman: paragraphs 0022, 0036-0037; Ellis: paragraphs 0107-0112, 0119, 0120; Thomas, paragraphs 0072-0073).

Regarding claim 20, Goldman in view of Ellis discloses data processing apparatus as discussed in the rejection of claim 11. Goldman in view of Ellis further discloses the information transmitted from the user terminals includes a good impression level representing how the users feel about a program (see discussion in the rejection of claim 14);

the aggregation means aggregates the good impression level for each of the programs (upstream receiver or processing circuitry aggregates the viewing behavior, viewing activity, or user preferences including strong like, weak like, etc. for each of the programs - see include, but are not limited to, figures 2-6, paragraphs 0022, 0036-0037, 0052-0054; Ellis: figures 2a-2d, 13a-13d, paragraphs 0089-0090, 0107-0112; Thomas: paragraphs 0069-0073).

Regarding claim 21, Goldman in view of Ellis discloses the data processing apparatus as discussed in the rejection of claim 1. Goldman in view of Ellis further discloses generating EPG in which the program guide data for one day is displayed on one page (e.g., from 800 to 9:30 of a day -see Goldman: figure 4; or the program guide server or EPG generating device at user television generates an EPG in which when the user selects day button or page up/page down, or day forward, day backward for the listing of a day (see include, but are not limited to, K387: paragraphs 0099-0101; E988:

paragraph 0072, and US 2003/0066085 (continuation of 08/938,028 which is incorporated by reference in its entirety in E988) figures 16-22, 26, paragraph 0103).

Regarding claim 22, the limitations of the method that correspond to the limitations of the apparatus of claim 1 are analyzed as discussed with respect to the rejection of claim 1.

Regarding claim 23, the limitations of the non-transitory computer readable storage medium that correspond to the limitations of the apparatus of claim 1 are analyzed as discussed in the rejection of claim 1. Goldman further discloses the computer readable storage medium for storing instructions being executed by a set top box or other computer to perform all functions (paragraphs 0023-0024). It would have been obvious one of ordinary skill in the art to embody the procedures of the method disclosed by Goldman in view of Ellis as discussed in the rejection of claim 1 in a "non-transitory computer readable storage medium" in order that the functions are performed automatically by a processor.

Regarding claim 24, the limitations that correspond to the limitations of claim 1 are analyzed as discussed in the rejection of claim 1. Goldman further discloses a server (e.g., signal source, network or clearinghouse system) for transmitting information (figures 1-6); and a user terminal (e.g., home entertainment system, television set, set

top box, etc.) for receiving information from the server (see include, but are not limited to, figures 1-6, paragraphs 0022, 0029-0034, 0042).

Regarding claim 25, Goldman in view of Ellis discloses the data processing as discussed in the rejection of claim 2. Goldman in view of Ellis further discloses the statistical data layer includes, respective to individual displayed within the two-dimensional grid guide format of the EPG, the number of personals who viewed a program during the broadcast time thereof (see discussion in the rejections of claim 2 and Goldman: figure 4, paragraphs 0052-0054).

Regarding claims 26-27, Goldman in view of Ellis disclosure the statistical layer include, respective to individual programs displayed within the two dimensional grid guide format of the EPG and an indicator of the number of persons selected a program. Goldman in view of Ellis further discloses user selections of a program including tuning to program, recording program, viewing recorded program, etc. or the need for displaying indicator of number of persons selected a program (see include, but not limited to, Goldman: figure 4, paragraphs 0052-0054; Hassell: figures 9, 12a-12b, col. 9, line 53-col. 10, line 17). It would have been obvious to one of ordinary skill in the art to try displaying indicator of the number of persons who scheduled the program for recording (as recited in claim 26) or displaying an indicator of the number of personals who viewed the recording of the program (as recited in claim 27) in order to yield predictable results such as improving accuracy in viewer's activities tracking and targeting content.

Regarding claim 28, Goldman in view of Ellis disclosure the statistical layer include, respective to individual programs displayed within the two dimensional grid guide format of the EPG and an indicator with highest rank, most popular program, or viewer's selection of program for recording, viewing, tuning, etc. (see include, but not limited to, Goldman: figure 4, paragraphs 0052-0054; Hassell: figures 9, 12a-12b; Thomas: figure 10A). It would have been obvious to one of ordinary skill in the art that the statistical data includes an indicator of the good impression level representing how the users feel about the program (e.g., the selections of program for recording, viewing, etc. indicate viewers like program) in order to improve accuracy in viewer's activities tracking. (Also see US 20040117831, figures 24-25, for the teaching of providing an indicator of a good impressing level representing how users feel about the program is well-known in the art).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ellis (20040117831) discloses indicator indicating impressing level of viewer (figures 24-25).

Billmaier et al. (US 7,735,102 B1) discloses displaying status indicator indicating when the program was recorded, whether the recorded program has been watched (col. 9, lines 15-18, figure 7.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SON P. HUYNH whose telephone number is (571)272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Son P Huynh/
Primary Examiner, Art Unit 2424

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